



Military vs. Civilian Jurisdiction

- Military and Civilian Court have concurrent jurisdiction in cases of crimes by military personnel off-base.
 - Can be prosecuted in both, though rare.
- Generally cooperation ensures appropriate justice
- Victim professionals in both collaborate.
- Counseling comes from Family Service's special MSWs.
- Beginning to contract out to private counselors.

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Military Law

- Uniform Military Code
 (UCMJ)
 - Enacted by Congress.
 - Establishes the substantive and procedural laws, governing the military justice system.
- Manual for Courts-Martial (MCM)
 - Promulgated by the President.
 - Prescribes the additional procedural rules and punishments.

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Military Law Enforcement

- Commanding Officer
 - Minor infractions
 - Disciplinary problems; insubordination
- Military Police (MPs)
 - Minor crimes; misdemeanors
- Criminal Investigative Command (CID)
 - Serious Crimes
- Judge Advocates Generals JAGs (Military Lawyers)
 - Advise all of the above throughout the process.
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Powers of the Commanding Officer

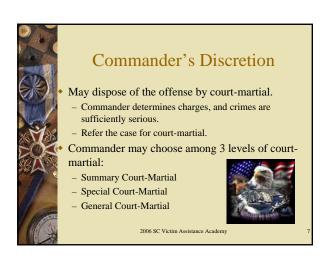
- Commander has broad powers of discretion when it comes to disposition of cases.
- Commander may choose to take no action.
 - Can decide, based on available information, that no action is justified or necessary.
 - Case is effectively dropped.
- May initiate administrative action against a service member.
- Administrative action not punitive in nature it is remedial.
- Compulsory counseling; reprimand; involuntary separation
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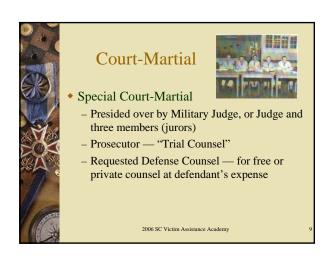
Commander's Discretion in Disposition

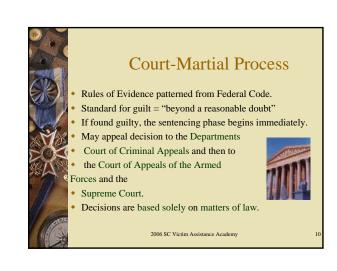
- May dispose of the offense with non-judicial punishment.
 - Hearing presided over by the Commander.
 - Informal inquiry.
 - Applies only to minor offenses.
 - Defendant may call witnesses;
 - consult a JAG (judge advocate)Rules of evidence do not apply.
 - Commander/Judge determines guilt beyond reasonable doubt.
 - Defendant can appeal Commander's decision to the next higher Commander.

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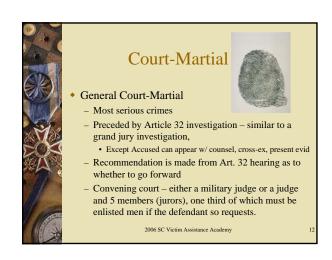














DoD Victim and Witness Assistance Directive

- Introduced in 1994 (military equivalent of Federal Victim Witness Protection Act).
 - Be treated with fairness and respect.
 - Be reasonably protected.
 - Be notified of court-martial proceedings.
 - Be present at court-martial proceedings.
 - Confer with the government attorney.
 - Available restitution.
 - Know outcome of trial and release from confinement.



Army Sexual Assault Response **Initiative**

- Unit Victim Advocates
 - Trained on the available services, 1st line help
- Installation Victim Advocates
 - More able to provide continuing assistance
- Restricted vs. Unrestricted
 - Restricted reports allow the victim to receive services without the fear of the criminal process, "re-victimization fear"

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DoD Interdisciplinary Approach

- Law enforcement
- Criminal investigators
- Chaplains
- Family advocacy personnel
- Sexual Assault Response Coordinator
- Victim Advocate
- ER personnel

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 Victim/Witness Liason

- Equal opportunity personnel
- Judge advocates
- Unit commanding officers
- Corrections personnel



Implementation of Directive

• Each Service has developed its own regulations to further implement the Directive.



- Each has established an interdisciplinary Victim Witness Assistance Counsel.
- Most JAG offices have a full or part-time victim/witness assistance specialist.

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Oversight for Implementation of Victim **Assistance Programs**

- Office of the Secretary of Defense
- Dept. of the Army
- Dept. of the Air Force
- Dept. of the Navy
- Marine Corps
- Coast Guard







Related Special Military **Programs**

- Family Advocacy Programs
 - Military equivalent of social services.
 - Handles all domestic violence and child abuse cases.
- **Equal Opportunity Program**
 - Sexual Harassment Cases
- Sexual Assault Review Board (SARB)
 - Review victim responses for every instance of Sexual assault whether restricted or unrestricted.

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Special Compensation Programs

- Transitional compensation
 - Separation/divorce as result of domestic violence.
 - Support payment from spouse; up to 36 months
- Payments from retired pay for abused dependents
- Article 139, UCMJ Property claims
 - Restitution for Property Damage.
- Foreign Claims Act
 - Claims for damage done by service members to foreign citizens and their property.

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Special Compensation Programs

- Restitution from offender
 - Is no right to restitution in the military.
 - But can be included as condition of pretrial agreement (plea bargain).
- Compensation for military victims under state programs
 - State Compensation Funds
 - Assuming Military Service benefits are exhausted.
 - Medica
 - Funeral Will not cover non-military personnel

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